

# **EXHIBIT B**

to the Declaration of  
Lisa J. Cisneros in Support of  
Plaintiffs' Opposition Briefs

**REDACTED VERSION**

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA  
3 SAN JOSE DIVISION  
4  
5

6 IN RE: HIGH-TECH EMPLOYEE )  
7 ANTITRUST LITIGATION )  
8 ) No. 11-CV-2509-LHK  
9 THIS DOCUMENT RELATES TO: )  
10 ALL ACTIONS. )  
11 \_\_\_\_\_ )  
12  
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14 ATTORNEYS' EYES ONLY  
15 VIDEO DEPOSITION OF DIGBY HORNER  
16 March 1, 2013  
17  
18

19 REPORTED BY: GINA V. CARBONE, CSR NO. 8249, RPR, CCRR  
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10:03:59 1 all right, that's the kind of stuff that has to be done  
10:04:01 2 for every product, or similar.

10:04:03 3 And so to get back to your specific question on  
10:04:05 4 performance, what I'm talking about here is, you know,  
10:04:09 5 when somebody interacts with one of our applications,  
10:04:12 6 they use a mouse or they use the keypad, they perform  
10:04:16 7 certain operations, maybe in PhotoShop it might be that  
10:04:18 8 there's a photographic image and they're going to apply  
10:04:23 9 a filter to that image, and it's going to take some  
10:04:25 10 amount of time for the algorithm that lives behind  
10:04:29 11 that -- that request that the user has made to sort of  
10:04:32 12 visit every pixel and perform both analysis and  
10:04:35 13 manipulation on that pixel. That's super compute  
10:04:41 14 intensive type of stuff.

10:04:42 15 And so when I talk about performance, what I'm  
10:04:45 16 talking about is needing to get together with Apple's  
10:04:48 17 engineers to really understand, you know, what are the  
10:04:51 18 best APIs within their operating system that we should  
10:04:55 19 be calling to ensure that we can perform those  
10:04:59 20 algorithms with the highest performance, because it was  
10:05:01 21 very much the desire of both companies to, you know,  
10:05:04 22 offer a product that was exceptional on their platform.

10:05:10 23 There were many examples where, you know, the  
10:05:12 24 APIs that they provided in the operating system had not  
10:05:17 25 really been designed with the kinds of operations in

10:05:19 1 mind that -- that our applications required and --

10:05:24 2 MS. SCHALMAN-BERGEN: Q. I don't mean to  
10:05:25 3 interrupt you. Can you just clarify what API's are and  
10:05:28 4 then you can go on.

10:05:30 5 A. Application programming interface.

10:05:32 6 Q. Okay.

10:05:32 7 A. Yeah.

10:05:32 8 So that's -- that's what I mean by -- by an  
10:05:34 9 example of the kind of collaboration that would be  
10:05:37 10 necessary in PhotoShop in the category of performance.

10:05:42 11 Q. Thank you --

10:05:43 12 A. And that's true for Premier. It's true for  
10:05:47 13 After Effects and -- and -- and many of the other  
10:05:49 14 products. Although the nature of that may be different  
10:05:51 15 in each of those applications.

10:05:53 16 Q. Are you finished?

10:05:54 17 A. Yes.

10:05:58 18 Q. Did collaborations relating to the performance  
10:06:00 19 of Adobe's products on the Apple platform begin in 2005?

10:06:04 20 A. No.

10:06:06 21 Q. When did they begin?

10:06:08 22 A. Difficult for me to give you an exact answer on  
10:06:10 23 that. Almost, you know -- I mean, certainly, I would  
10:06:13 24 say, right from when those applications first came to  
10:06:16 25 life.

10:06:18 1 Q. So the collaborations that you've been  
10:06:20 2 describing, is it fair to describe them as ongoing?

10:06:24 3 A. Yes.

10:06:26 4 Q. In any of the collaborations that you've  
10:06:29 5 mentioned so far, were any of them collaborations that  
10:06:34 6 began in or around 2005?

10:06:38 7 A. I don't recall. I mean, they were definitely  
10:06:42 8 underway in 2005, but I don't -- it's difficult for me  
10:06:47 9 to, you know, think -- I mean, short of some of the --  
10:06:50 10 the big OS transformations, like the move to OS X or the  
10:06:56 11 power PC transformation, those kinds of things, maybe  
10:07:01 12 it's best -- certainly the way I think about this is  
10:07:04 13 that with every significant release of Mac -- of the  
10:07:08 14 Macintosh OS, which, you know, occurred about every 18  
10:07:13 15 months to two years, typically, there was, you know,  
10:07:16 16 several months of -- of pretty deep collaboration that  
10:07:19 17 was necessary to make sure that our products would  
10:07:21 18 continue to run, you know, appropriately.

10:07:26 19 Q. When was OS X released?

10:07:28 20 A. I don't remember the exact time frame of that.

10:07:30 21 Q. Was it prior to 2005?

10:07:31 22 A. It was, I believe.

10:07:44 23 Q. In your meeting with Bruce, the eteam meeting  
10:07:48 24 we've been talking about, which specific collaborations  
10:07:52 25 did Bruce identify as being important to starting this

10:07:57 1 no solicitation agreement?

10:08:00 2 A. He didn't talk about specific collaborations,  
10:08:03 3 but I -- I definitely interpreted this to be, you know,  
10:08:10 4 largely instigated as a result of our need to have these  
10:08:15 5 engineering, development-driven collaborations. So that  
10:08:20 6 was my interpretation.

10:08:22 7 Q. Did engineering development-driven  
10:08:25 8 collaborations begin with Apple shortly prior to the  
10:08:29 9 eteam meeting that you had?

10:08:30 10 A. No.

10:08:40 11 Q. What did he say about why collaborations  
10:08:43 12 required Adobe and Apple to enter into the agreement  
10:08:46 13 you've discussed?

10:08:49 14 MR. KIERNAN: Assumes facts not in evidence.  
10:08:50 15 Objection to the extent it misstates his prior  
10:08:53 16 testimony.

10:08:56 17 THE WITNESS: I'm sorry, can you repeat the  
10:08:57 18 question for me.

10:08:58 19 MS. SCHALMAN-BERGEN: Can you read it back,  
10:08:59 20 please.

10:09:06 21 (Record read as follows: What did he say about  
10:09:06 22 why collaborations required Adobe and Apple to  
10:09:06 23 enter into the agreement you've discussed?)

10:09:08 24 MR. KIERNAN: Assumes facts not in evidence.

10:09:08 25 And to the extent it misstates his prior testimony about

10:09:11 1 what Bruce Chizen said at the meeting.

10:09:14 2 THE WITNESS: Yeah. I'm sorry, I'm having kind  
10:09:17 3 of a hard time parsing the question. Can you repeat it  
10:09:20 4 one more time.

10:09:32 5 (Record read as follows: What did he say about  
10:09:32 6 why collaborations required Adobe and Apple to  
10:09:32 7 enter into the agreement you've discussed?)

10:09:33 8 MR. KIERNAN: Same objections.

10:09:34 9 THE WITNESS: Yeah. I think the -- you know,  
10:09:36 10 my recollection was that, you know, Bruce fully  
10:09:40 11 understood that we had, you know, that we had this  
10:09:44 12 ongoing need to have a low level of collaboration with  
10:09:47 13 Apple that had been going on for years, really right  
10:09:50 14 almost from the start of the company's inception. So I  
10:09:55 15 think Bruce didn't really state anything explicitly  
10:09:59 16 about that. It was just an assumption. I mean, that's  
10:10:01 17 just the way we'd been working for years. And it was  
10:10:04 18 necessary.

10:10:08 19 MS. SCHALMAN-BERGEN: Q. It was your  
10:10:09 20 assumption that the ongoing need to have a low level  
10:10:12 21 of collaboration with Apple required Bruce to enter  
10:10:15 22 into an agreement with Steve not to recruit each  
10:10:17 23 other's employees?

10:10:19 24 A. Well, I think, you know, I guess, so my answer  
10:10:21 25 is yes.

12:25:29 1 Q. Did we talk about After Effects?

12:25:31 2 MR. KIERNAN: Yes.

12:25:32 3 THE WITNESS: You did mention After Effects.

12:25:34 4 MS. SCHALMAN-BERGEN: Q. What's Flash?

12:25:36 5 A. So Flash is the technology that is designed to  
12:25:43 6 support interactivity in the context of Web pages.

12:25:51 7 Q. Have Adobe and Apple collaborated with respect  
12:25:53 8 to Flash?

12:25:54 9 A. They have. They have.

12:25:56 10 Q. Can you describe the nature of their  
12:25:59 11 collaborations.

12:26:00 12 A. Well, I -- I wasn't involved firsthand, but I  
12:26:03 13 know that, again, one of the things that Flash is  
12:26:06 14 extremely sensitive to is performance. And so that's  
12:26:11 15 certainly an area where I know collaboration occurred  
12:26:15 16 between the two companies.

12:26:16 17 The other big area of concern with technologies  
12:26:20 18 like Flash is security and making sure that, you know,  
12:26:24 19 little programs that are essentially representations of  
12:26:32 20 this interactivity, they're -- it's much like that page  
12:26:34 21 description language we talked about earlier that  
12:26:38 22 outputs a printed page. In this case, it's a little  
12:26:40 23 language that outputs a little piece of interactivity  
12:26:43 24 within the context of a Web page.

12:26:45 25 So security was a big issue that we worked



12:26:48 1 closely with Apple on to assure that somebody wouldn't  
12:26:53 2 introduce, you know, any sort of unexpected side effects  
12:26:59 3 as a result of running these little action scripts that  
12:27:02 4 are the basis of Flash.

12:27:11 5 Q. Has there been any tension between Adobe and  
12:27:13 6 Apple with respect to adoption of Flash?

12:27:16 7 A. Yes, there has.

12:27:18 8 Q. Can you describe that tension for me.

12:27:20 9 A. Yeah. I think it's, you know, it's been pretty  
12:27:22 10 much in the news. Everybody knows about it. You know,  
12:27:25 11 Apple really felt fairly strongly that the use of Flash,  
12:27:30 12 particularly in the context of mobile applications,  
12:27:33 13 really did not meet Apple's expectations. They didn't  
12:27:39 14 feel it was performing enough. They felt that it's, you  
12:27:43 15 know, the sort of requirements that they put on  
12:27:46 16 batteries associated with these devices, all these  
12:27:48 17 things were, you know, not where Apple expected them to  
12:27:54 18 be. And that was the source of the tension.

12:27:59 19 Q. And Apple decided not to use Flash on its  
12:28:03 20 mobile applications; is that accurate?

12:28:05 21 A. That's accurate.

12:28:07 22 Q. Was that a source of concern at Adobe?

12:28:11 23 A. Absolutely.

12:28:14 24 Q. How would you describe the nature of the  
12:28:16 25 relationship between Adobe and Apple during that time

12:28:21 1 period?

12:28:21 2 A. Well, I think it was at a low point. I mean,  
12:28:24 3 the relationship ebbed and flowed and there were, you  
12:28:27 4 know, points in time that -- the TrueType Microsoft  
12:28:30 5 thing is another example of one of those where we were  
12:28:32 6 at a low point in our relationship.

12:28:35 7 But I still feel like, you know, even -- even  
12:28:38 8 while that was happening, there were still, you know,  
12:28:40 9 many, many examples where the companies needed to  
12:28:44 10 collaborate and -- and were dependent upon one another.

12:28:49 11 Q. Okay. Have I missed any major collaborations  
12:28:54 12 that Apple and Adobe have had to work on during the  
12:29:01 13 course of their histories?

12:29:02 14 A. We've talked primarily about the engineering  
12:29:04 15 collaborations, but there were a whole range of kind of  
12:29:06 16 go-to-market collaborations that were equally impactful.

12:29:11 17 Q. Tell me what you mean by "go to market."

12:29:15 18 A. What I mean by that is, since we serve largely  
12:29:18 19 the exact same customer segment, or we have for many  
12:29:21 20 years of our combined history, creative professionals,  
12:29:25 21 you know, as we introduced a new important product like  
12:29:29 22 InDesign, we would frequently collaborate with Apple to  
12:29:31 23 put together a marketing campaign that would make  
12:29:35 24 available InDesign plus a new Apple device, for example.  
12:29:40 25 So that's what I mean by go to market. And there were

12:29:42 1 many, many examples of that.

12:29:43 2 Q. Can you list a few of those examples.

12:29:45 3 A. Yeah. So there were pro- -- there were  
12:29:46 4 campaigns that we would jointly run that targeted the  
12:29:52 5 educational vertical, so back-to-school kinds of  
12:29:54 6 experiences where we would offer discounted software in  
12:29:57 7 conjunction with Apple's hardware. The bundling of our  
12:30:01 8 products on Apple software, frequently. So those are  
12:30:03 9 examples.

12:30:04 10 Q. Are there any other examples of major  
12:30:09 11 collaborations that we now have not discussed that --  
12:30:12 12 between Adobe and Apple?

12:30:14 13 A. I don't think so.

12:30:16 14 Q. Okay. If you think of any, will you let me  
12:30:18 15 know?

12:30:18 16 A. I will.

12:30:19 17 MS. SCHALMAN-BERGEN: I think now would be a  
12:30:20 18 good time to take a lunch break.

12:30:22 19 MR. KIERNAN: Okay.

12:30:23 20 THE VIDEOGRAPHER: This is the end of video  
12:30:25 21 No. 3. The time is 12:30 p.m.

12:30:28 22 We're off the record.

12:30:29 23 (Recess taken.)

01:13:04 24 THE VIDEOGRAPHER: This is the beginning of  
01:13:06 25 video No. 4 in the deposition of Digby Horner. The time

01:50:37 1 A. Adobe and Microsoft or Adobe and Apple?

01:50:39 2 Q. Microsoft.

01:50:41 3 A. Adobe and Microsoft. I'm sure there are  
01:50:46 4 others, but I think we've talked about the ones that I  
01:50:48 5 can recall at this point.

01:50:55 6 And I know, by the way, that you asked me, you  
01:50:57 7 know, could I think of any others with respect to Adobe  
01:50:59 8 and Apple. And I did think of a couple more.

01:51:02 9 Q. Okay. Go ahead.

01:51:04 10 A. We talked a bit about OSF -- OS X and Steve's  
01:51:08 11 sort of concern that, you know, we weren't moving fast  
01:51:11 12 enough on OS X. Well, one of the collaborations I  
01:51:13 13 didn't mention was the Illustrator product. Adobe  
01:51:16 14 Illustrator. And we put a huge amount of effort in --  
01:51:20 15 in, you know, making Illustrator run well on OS X.

01:51:24 16 And, in fact, it was such a significant  
01:51:26 17 investment that it took almost -- not almost, it took  
01:51:29 18 the entire team almost two full product cycles, so  
01:51:32 19 almost three years, to rewrite major portions of that  
01:51:35 20 application to work properly on OS X. And that  
01:51:40 21 involved, you know, lots and lots of hours of  
01:51:43 22 collaboration with -- with Apple.

01:51:44 23 And another big one I missed was when Apple  
01:51:48 24 moved to the power PC architecture. You know, the Intel  
01:51:51 25 architecture. That was one that was very interesting

01:51:55 1 because it -- it was really foundational and it had a  
01:52:00 2 dramatic impact on performance. So we had to go back  
01:52:03 3 and really retune performance in all of our applications  
01:52:06 4 as a result of that architectural change.

01:52:09 5 So those were two big ones that I -- I didn't  
01:52:11 6 mention. Just -- just to be clear, those are the only  
01:52:15 7 ones I remember right now.

01:52:18 8 Q. Thank you.

01:52:19 9 With respect to Illustrator, during what time  
01:52:22 10 period were Apple and Adobe collaborating the way that  
01:52:25 11 you just discussed?

01:52:27 12 A. Well, this was -- this was right prior to  
01:52:28 13 OS X being released, so I think that was 2001-ish or  
01:52:32 14 thereabouts. And -- and it went on for -- for a good  
01:52:37 15 long while.

01:52:37 16 And remember, like I said earlier, OS X was  
01:52:39 17 really a series of releases on -- that -- that took, you  
01:52:43 18 know, really a five- or six-year period to realize, and  
01:52:46 19 so there were four or five different releases.

01:52:48 20 Q. Would you describe the 2001 time period as a  
01:52:51 21 period of intense collaboration between Adobe and Apple  
01:52:54 22 with respect to Illustrator?

01:52:56 23 A. I would.

01:53:02 24 MR. KIERNAN: I think -- I should note for the  
01:53:03 25 record, Sarah, that the -- I think some -- as I'm

01:53:05 1 listening to this right now, some of the confusion I  
01:53:07 2 think was you're asking this morning about only  
01:53:11 3 collaborations when he was an individual contributor.

01:53:14 4 And I don't know if for now we're going into  
01:53:17 5 the manager side, and if you are going to get into that  
01:53:20 6 at all or not, but....

01:53:21 7 MS. SCHALMAN-BERGEN: That's a good  
01:53:22 8 clarification.

01:53:23 9 Q. And so when I was asking if you remembered any  
01:53:26 10 other collaborations, I would like to know the full list  
01:53:29 11 of collaborations, so if there are any from your entire  
01:53:32 12 time period working at Adobe, so if there's anything so  
01:53:35 13 far that you have not mentioned, now would be a good  
01:53:37 14 time to tell me about those collaborations.

01:53:39 15 A. Yeah. So I -- I think we talked about the  
01:53:41 16 shift to the Intel architecture. We talked about  
01:53:44 17 Illustrator. We've talked about PhotoShop and After  
01:53:48 18 Effects and InDesign. So I think that's a pretty good  
01:53:52 19 laundry list. And -- and again, I'll reserve the right  
01:53:55 20 to say that those are the ones I remember right now.  
01:54:00 21 I'm sure on my drive home I'll think of several more.

01:54:04 22 Q. That's fair.

01:54:04 23 With respect to the collaborations involving  
01:54:07 24 the Intel architecture, during what time period would  
01:54:10 25 you say those collaborations occurred?

03:02:23 1 this guy really a rock star and are we willing to make  
03:02:27 2 an exception here because this is an infrequent  
03:02:29 3 occurrence.

03:02:30 4 Q. And is some of the information in this chart  
03:02:32 5 related to the compensation of his peers?

03:02:38 6 A. Well, I think that in this chart right here, I  
03:02:41 7 don't see anything -- well, yeah. They do have the base  
03:02:44 8 salaries in here. And so I think that the way you would  
03:02:51 9 correlate this is that you would look at the salary  
03:02:57 10 range that's characterized on page 1. [REDACTED]

[REDACTED] A rather large range.

03:03:06 12 And what you see on the second page is sort of  
03:03:09 13 a subset of 5163s. Probably doesn't include  
03:03:13 14 localization, engineers and some other categories that  
03:03:16 15 aren't good compares and tries to give you a sense of  
03:03:19 16 what the distribution of salaries is across those.

03:03:23 17 Q. What is the -- do you see the first column that  
03:03:25 18 says comp ratio, I think?

03:03:27 19 A. Yeah. My understanding of comp ratio is where  
03:03:33 20 are those folks in the range. So we -- when we bring  
03:03:38 21 somebody in as a new hire, you know, we -- we -- we have  
03:03:44 22 a particular target in that range that -- that we hire  
03:03:48 23 sort of on average against, and Donna Morris would be  
03:03:51 24 able to give you tons more detail than I can here, but  
03:03:55 25 I'll try to give you the details as I understand them.

03:03:58 1

[REDACTED]

[REDACTED] 2

[REDACTED]

[REDACTED] 3

[REDACTED]

[REDACTED] 4

[REDACTED]

[REDACTED] 5

[REDACTED]

[REDACTED] 6

[REDACTED]

[REDACTED] 7

[REDACTED]

[REDACTED] 8

[REDACTED]

[REDACTED] 9

[REDACTED]

[REDACTED] 10

[REDACTED]

[REDACTED] 11

[REDACTED]

03:04:37 12

I know that's complicated, but....

03:04:40 13

Q. Is it fair to say that you want to consider how

03:04:44 14

[REDACTED] peers are being compensated to make sure

03:04:48 15

that the compensation he receives is fair in comparison

03:04:52 16

to them?

03:04:54 17

MR. KIERNAN: Argumentative.

03:04:55 18

THE WITNESS: Yeah. What I would -- what I

03:04:57 19

would say here is that, you know, the primary thing I

03:04:59 20

look at is -- so that -- that's a term that we use

03:05:03 21

internally, which is internal equity.

03:05:06 22

Q. Okay.

03:05:06 23

A. And, you know, at the end of the day, I -- we

03:05:08 24

do care about that. I mean, one of the things that I

03:05:11 25

would look at is, you know, is the -- is the proposal



03:05:15 1 that John's making something that's likely to put this  
03:05:18 2 employee outside of the range. That would, of course,  
03:05:20 3 be a concern for me.

03:05:22 4 But really, for me, it's less about the equity  
03:05:27 5 with respect to these folks. You know, I don't want  
03:05:31 6 them to be out of the range, but it's more about his  
03:05:34 7 performance and being able to say, well, what has he  
03:05:37 8 done in comparison to some of these other folks,  
03:05:40 9 particularly the one on the list here who is a [REDACTED]

03:05:45 10 You know, explain to me what kinds of  
03:05:46 11 contributions -- what I would ask Jocelyn is, is help me  
03:05:48 12 understand the kinds of things that [REDACTED] has  
03:05:51 13 done over the last couple of years and let me just make  
03:05:55 14 sure I can calibrate those against the things John has  
03:05:58 15 called out and just be confident from a data perspective  
03:06:00 16 that we're making an as -- an appropriate exception  
03:06:02 17 here.

03:06:03 18 Q. Thank you.

03:06:04 19 If you look at the email above the one we were  
03:06:07 20 just looking at, there's an email from John Farmer to  
03:06:10 21 you, and that's dated October 25th, 2010. Do you see  
03:06:12 22 that?

03:06:13 23 A. Yes.

03:06:13 24 Q. Okay. And Rick Waters and Jocelyn Vosburgh are  
03:06:18 25 copied on that. Do you see that?

04:35:13 1 context, you have the time to do it.

04:35:22 2 THE WITNESS: I mean, first off, I agree with  
04:35:24 3 this statement and I think the context that I would  
04:35:27 4 share here is that, you know, it's similar to, again, a  
04:35:33 5 theme that we've touched on a number of times today. I  
04:35:35 6 think that if the trust had eroded, we would not have  
04:35:44 7 given up in trying to, you know, continue to offer our  
04:35:46 8 applications on that platform.

04:35:48 9 But I just -- I think we would have been far  
04:35:51 10 less successful at being able to, you know, between the  
04:35:53 11 two companies, deliver really world class products that  
04:35:57 12 benefited both companies.

04:35:59 13 MS. SCHALMAN-BERGEN: Q. Are you aware of  
04:36:00 14 any instance in which a cold call actually impacted  
04:36:06 15 collaborations?

04:36:08 16 MR. KIERNAN: Objection to the extent it calls  
04:36:09 17 for speculation.

04:36:10 18 THE WITNESS: Yeah. I -- I am not aware of  
04:36:13 19 anything in sort of my immediate sphere.

04:36:34 20 MS. SCHALMAN-BERGEN: You can put that document  
04:36:35 21 away.

04:36:53 22 Q. Sir, can you identify any ways consumers of  
04:36:57 23 Apple products are being hurt -- or excuse me -- of  
04:36:58 24 Adobe's products are being hurt because Adobe is no  
04:37:01 25 longer adhering or entering into the kinds of

04:37:04 1 nonsolicitation agreements that the DOJ Final Judgment  
04:37:07 2 barred?

04:37:08 3 MR. KIERNAN: Objection to the extent it calls  
04:37:09 4 for speculation. Ambiguous and assumes facts not in  
04:37:14 5 evidence.

04:37:17 6 THE WITNESS: Yeah. I mean, it's pretty early  
04:37:19 7 since the DOJ, you know, change is upon us now. So I  
04:37:26 8 guess what I fear, and this is, again, just -- you're  
04:37:28 9 asking for my opinion here, so....

04:37:31 10 What I fear is something we've touched on a few  
04:37:34 11 times today, which is just that there are going to be,  
04:37:37 12 you know, features that we are not able to implement to  
04:37:40 13 the same level on the Apple platform versus the  
04:37:46 14 Microsoft platform. So that's the sort of thing that I  
04:37:49 15 fear.

04:37:52 16 MS. SCHALMAN-BERGEN: Q. Which specific  
04:37:52 17 features do you fear you will not be able to  
04:37:55 18 implement on the same level of the Apple platform as  
04:38:00 19 a result of not being enter -- able to enter into  
04:38:06 20 nonsolicitation agreements?

04:38:06 21 A. Well, I'm -- I'm sort of offering up a  
04:38:08 22 generalization, but I think the sorts of features that  
04:38:13 23 I -- I think would be at risk are features that are, you  
04:38:19 24 know, highly performance sensitive. And -- and a lot of  
04:38:24 25 PhotoShop and -- and the video product features, you

04:38:29 1 know, one of the trends in those products is the ability  
04:38:32 2 to make transformations on images or clips of video and  
04:38:36 3 sort of see the effects of those things happening in  
04:38:38 4 real time. And that takes a tremendous amount of  
04:38:41 5 compute time and -- and a -- and very fine tuning that  
04:38:45 6 takes advantage of a lot of graphics code processors and  
04:38:51 7 things of that nature.

04:38:52 8 And those are examples of the sorts of things  
04:38:57 9 that we really require Apple's collaboration to make  
04:38:59 10 sure that we're taking advantage of in the proper way.  
04:39:02 11 So that's an example of the sort of thing that I think  
04:39:05 12 could degrade.

04:39:07 13 Q. Have you expressed this fear to anyone within  
04:39:10 14 Adobe?

04:39:11 15 A. Well, I have a team that works on these, you  
04:39:16 16 know, enabling our applications to talk to these graphic  
04:39:20 17 processing units so, yeah, it's a fear that we talk  
04:39:24 18 about internally. I know Apple knows that we're  
04:39:27 19 concerned about that. We haven't seen any signs of  
04:39:30 20 noncollaboration with them as a result of the DOJ  
04:39:34 21 settlement. So that's good.

04:39:36 22 Q. How do you know that Apple knows you're  
04:39:38 23 concerned about it?

04:39:39 24 A. Oh, we talk with them.

04:39:41 25 Q. Who do you talk to?

04:39:42 1 A. Well, it's, again, one of these examples of --  
04:39:45 2 of collaboration. I mean, somebody in -- there's a  
04:39:47 3 couple of people in my core technology group that are  
04:39:51 4 responsible for -- they're responsible for some  
04:39:56 5 libraries that we build that are incorporated into all  
04:39:59 6 of Adobe's products that sort of provide an interface to  
04:40:02 7 these graphic processing units.

04:40:04 8 And they have counterparts at Apple. I don't  
04:40:07 9 know their exact names. But folks that they talk to on  
04:40:10 10 a regular basis to try to stay abreast of any changes  
04:40:14 11 that might be coming as a result of OS improvements or  
04:40:19 12 OS releases. And so I'm -- I'm sort of assuming -- I  
04:40:22 13 know that those conversations happen on a pretty regular  
04:40:24 14 basis.

04:40:25 15 Q. Which employee within Adobe told you that they  
04:40:28 16 had a conversation with Apple about a fear that  
04:40:35 17 nonsolicitation agreements would prevent future  
04:40:37 18 collaborations?

04:40:39 19 A. Which Adobe employee. Well, if I said that, I  
04:40:42 20 meant that, you know, again, this is kind of one of  
04:40:45 21 those things where in team meetings with some of my  
04:40:50 22 subgroups we talk about these kinds of things. So I  
04:40:52 23 can't name a specific individual. It's more like the  
04:40:56 24 buzz that I hear from my team that's quite intimately  
04:40:59 25 involved in this area.

04:41:01 1 Q. Can you identify a single individual who has  
04:41:03 2 told you that they have spoken with someone at Apple  
04:41:06 3 about a fear that collaborations would be hindered as a  
04:41:10 4 result of that --

04:41:11 5 A. Well, I didn't say spoken with Apple. I said  
04:41:15 6 spoken with -- you know, you asked me if I had heard --  
04:41:17 7 my interpretation was has anybody expressed that concern  
04:41:20 8 with me.

04:41:21 9 Q. Who has expressed the concern to you?

04:41:23 10 A. Yeah. I can get you a name if I need to. I'm  
04:41:25 11 not prepared to give it to you right now, but I'll have  
04:41:28 12 to go back and do some research.

04:41:29 13 Q. What would you do to research to get me a name?

04:41:31 14 A. I'd go talk to my GPU group.

04:41:34 15 Q. Who's in your GPU group?

04:41:37 16 A. Well, it's run by a gal by the name or Dahlia  
04:41:39 17 Ackner. So I assume it's either her or somebody on her  
04:41:43 18 team. But I would like to get the right contact,  
04:41:47 19 somebody that is in regular communication with Apple,  
04:41:48 20 and it would be somebody on her team.

04:41:50 21 Q. How do you spell her last name?

04:41:52 22 A. A-C-K-N-E-R.

04:41:57 23 Q. As we sit here today, you can't identify a  
04:41:59 24 single individual --

04:42:00 25 A. That's correct.

04:47:29 1 call, solicit or hire?

04:47:30 2 MR. KIERNAN: Objection. Form.

04:47:31 3 THE WITNESS: I can only answer in the context  
04:47:33 4 of my job and what I actually know. And that's --  
04:47:35 5 that's the context within which I'm answering.

04:47:38 6 MS. SCHALMAN-BERGEN: Q. So is the answer  
04:47:39 7 to my question, no, you don't have any basis?

04:47:41 8 A. Well, I think I do have a basis. I mean, I  
04:47:43 9 manage roughly a thousand people at the company, so, you  
04:47:45 10 know, I -- I think if -- I think it's -- I mean, it's  
04:47:49 11 not a guarantee, but I think it's reasonable that if  
04:47:52 12 there were other agreements, I might know about them.

04:47:56 13 Q. You think it's reasonable that if there were  
04:47:58 14 agreements between other defendants you might know of  
04:48:00 15 them?

04:48:01 16 A. Hard to say.

04:48:03 17 MS. SCHALMAN-BERGEN: Thank you.

04:48:06 18 THE VIDEOGRAPHER: This is the end of video  
04:48:07 19 No. 6 and the conclusion of today's proceeding. The  
04:48:11 20 time is 4:48 p.m.

04:48:12 21 We're off the record.

04:48:14 22 (The deposition concluded at 4:48 PM)

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04:48:15 25

1 I, Gina V. Carbone, Certified Shorthand  
2 Reporter licensed in the State of California, License  
3 No. 8249, hereby certify that the deponent was by me  
4 first duly sworn and the foregoing testimony was  
5 reported by me and was thereafter transcribed with  
6 computer-aided transcription; that the foregoing is a  
7 full, complete, and true record of said proceedings.

8 I further certify that I am not of counsel or  
9 attorney for either of any of the parties in the  
10 foregoing proceeding and caption named or in any way  
11 interested in the outcome of the cause in said caption.

12 The dismantling, unsealing, or unbinding of  
13 the original transcript will render the reporter's  
14 certificates null and void.

15 In witness whereof, I have hereunto set my  
16 hand this day: March 13, 2013.

17 \_\_\_X\_\_\_ Reading and Signing was requested.

18 \_\_\_\_\_ Reading and Signing was waived.

19 \_\_\_\_\_ Reading and signing was not requested.

20

21

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23

\_\_\_\_\_  
GINA V. CARBONE

24

CSR 8249, CRR, CCRR

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